REMARKS

This Application has been carefully reviewed in light of the Office Action mailed October 26, 2005. At the time of the Office Action, Claims 1 and 3-7 were pending in this Application. Claim 2 was previously cancelled by Applicants without prejudice or disclaimer. Claims 1 and 3-7 were rejected under 35 U.S.C. § 103 and Claim 3 was objected to. Claim 3 has been amended. Applicants respectfully request reconsideration and favorable action in this case.

Claim Objection

Claim 3 was objected to for depending on a cancelled claim. Applicants amend Claim 3 accordingly to overcome this objection.

Rejections under 35 U.S.C. §103

Claims 1 and 3-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 6,385,023 filed by Sudhir Pednekar et al. ("Pednekar") in view of U.S. Patent 5,559,474 issued to Takayuki Matsumoto ("Matsumoto"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1997). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Claim 1 includes the limitation *"determining a threshold value crossing time from at least two previous samples of a process variable."* Thus, the method according to claim 1 is able to predict a crossing of a threshold and accordingly, the timing mechanism is started using this specifically determined time. The Examiner stated that Pednekar discloses these

method steps. Applicants respectfully disagree. Pednekar does not disclose to predict a crossing of a threshold from two previous samples.

Pednekar actually determines the crossing of a first threshold UU by means of a voltage monitoring device as indicated in Figure 3 of Pednekar with numeral T1 and not by means of cyclical sampling. See Fig. 3 and col. 4, line 25-26. However, the detection of a threshold crossing is not equal to a cyclical sampling. The present invention is providing for cyclical sampling, i.e. between predefined time periods a certain parameter is sampled and its value provided for further processing. The term "sampled cyclically" is well known in the art and used in independent claim 1. As shown in Fig. 1 of the present invention, the cyclic sampling takes place at equidistant times t1, t2, t3, t4, etc. The crossing of a threshold, however, may not necessarily lie on a sampling time. Therefore, without a hardware comparator such a crossing time could be missed. Thus, the present invention provides for a method to predict when such crossing takes place and determines its crossing time by a timer independent from the cyclical sampling.

Pednekar, contrary to the present invention, uses a hardware detector to determine a threshold crossing. In addition, Pednekar does not predict a threshold crossing from two previous samples. Pednekar merely opens a time window TW1, TW2, TWn during which another threshold crossing, namely a crossing above UO, can be detected. The time window length is based on some assumptions about the characteristic of a drive but not on two previous samples. See col. 4, lines 38-40. However, the actual detection of this second threshold crossing is again performed by a comparator. See col. 4, lines 32-36.

In summary, Pednekar neither provides for cyclical sampling nor for a prediction of a threshold crossing by determining such a crossing using the last two sample values. Therefore, Applicants believe that Pednekar does not anticipate the present invention. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.
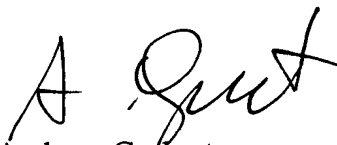
CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the claims as amended.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants

Andreas Grubert
Limited Recognition No. L0225
Expires June 30, 2006
Limited Recognition Under 37 C.F.R. §11.9(b)

Date: January 24, 2006

SEND CORRESPONDENCE TO:
BAKER BOTTS L.L.P.
CUSTOMER ACCOUNT NO. **31625**
512.322.2545
512.322.8383 (fax)

AUS01:400545.1